

1 Carl E. G. Arnold
2 Nevada State Bar Number - 8358
3 1428 S. Jones Boulevard
4 Las Vegas, Nevada 89146
Telephone: 702.358.1138
carl@cegalawgroup.com

5 Robert L. J. Spence, Jr. (*pro hac vice* approved)
6 Kristina A. Woo (*pro hac vice* approved)
7 65 Union Avenue, Suite 900
8 Memphis, Tennessee 38103
Telephone: 901.312.9160
9 rspence@spencepartnerslaw.com
kwoo@spencepartnerslaw.com

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 EURO MOTOR SPORT INC., and
13 SAMMIE BENSON,

14 Plaintiffs

15 vs.

16 ARB LAS VEGAS d/b/a LAS
17 VEGAS TOWING,

18 Defendant

Case No.: 2:21-cv-00177-CDS-BNW

**ORDER GRANTING UNOPPOSED
MOTION FOR EXTENSION OF
DEADLINE TO FILE MOTION FOR
DEFAULT JUDGMENT (First Request)**

[ECF No. 66]

20
21 COME NOW, the Plaintiffs, Euro Motor Sport, Inc., and Sammie,
22 Benson (collectively referred to as "Plaintiffs"), by and through undersigned counsel
23 of record, and move this Court to extend the Deadline for Plaintiffs to file a Motion
24 for Default Judgment through Thursday, August 3, 2023 ("Unopposed Motion").

25 In support of this Unopposed Motion, the Plaintiffs state as follows:
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I. INTRODUCTION

The Plaintiffs' Unopposed Motion seeks a brief ten (10) day extension of the Court mandated deadline to file a motion for default judgment that satisfies the requirements of Fed. R. Civ. P. 55 and the factors established in *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986) by Monday, July 24, 2023. See *ECF Doc. 64*.

In support of this Unopposed Motion, Plaintiffs submit that the parties have for the past several weeks engaged in settlement discussions and on Friday, July 21, 2023, entered into a Settlement Agreement that will resolve all matters in this cause and which will lead to the entry of a Stipulation of Dismissal of this cause. As Plaintiffs seek to preserve all procedural and/or substantive rights available to them as the parties finalize the Settlement Agreement, Plaintiffs request a brief ten (10) day extension of the deadline to file a motion for default judgment.

II. RELEVANT FACTS GERMANE TO A CONSIDERATION OF THE ISSUE

1. On or about December 7, 2022, Magistrate Judge Brenda Weksler granted Defendant Counsel, Andrew Leavitt's, Motion to Withdraw as Counsel of Record for the Defendant, and ordered Defendant to hire new counsel within sixty (60) days.

2. Defendant failed to hire new counsel by Monday, February 6, 2023.

3. On or about February 21, 2023, Magistrate Judge Weksler ordered Defendant to retain counsel and have them file a notice of appearance by March 21, 2023.

4. On March 22, 2023, Defendant Counsel James Beckstrom, II entered a notice of appearance on behalf of Defendant. *ECF Doc. 57*.

1 5. On March 24, 2023, Defendant Counsel James Beckstrom, II filed a Motion
2 to Withdraw as Attorney. *ECF Doc. 60.*

3 6. On March 28, 2023, Magistrate Judge Weksler granted Defendant Counsel
4 James Beckstrom, II's Motion to Withdraw, and ordered Defendant to hire new
5 counsel by April 27, 2023, advising that failure to do so may result in default being
6 entered against Defendant. *ECF Doc. 61.*

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8 7. On May 1, 2023, Magistrate Judge Weksler provided Defendant with one
9 last opportunity to retain counsel by May 16, 2023.

10 8. On June 7, 2023, Magistrate Judge Weksler issued a Report and
11 Recommendation that a default judgment be entered against Defendant for failure to
12 comply with Court orders and retain counsel. *ECF Doc. 63.*

13
14 9. On June 29, 2023, District Judge Cristina D. Silva adopted Magistrate
15 Judge Weksler's Report and Recommendation, and ordered the Clerk of the Court
16 enter a default against Defendant and that Plaintiffs file a motion for default judgment
17 in compliance with Fed. R. Civ. P. 55 and *Eitel v. McCool*, 782 F.2d 1470, 1471-72
18 (9th Cir. 1986) by July 24, 2023. *ECF Doc. 64.*

19
20 10. On Friday, July 21, 2023, the parties entered into a Settlement Agreement
21 that resolves all claims pending before the Court.

22 11. Plaintiffs seek a brief ten (10) day extension to finalize the initial compliance
23 obligation under the Settlement Agreement. To the extent Defendant is compliant
24 with the initial terms of the Settlement Agreement, Plaintiffs will file with the Court a
25 Stipulation of Dismissal Without Prejudice. To the extent Defendant fails to comply
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1 with the terms of the Settlement Agreement, Plaintiffs will file a proper Motion for
 2 Default Judgment.

3 **III. STATEMENT AS TO WHY THE MOTION FOR DEFAULT JUDGMENT**
 4 **CANNOT BE FILED WITHIN THE TIME LIMIT SET BY THE COURT'S**
 5 **ORDER**

6 Plaintiffs have the ability to within the time limit set by the Court file a motion for
 7 default judgment in compliance with Fed. R. Civ. 55 and *Eitel v. McCool*, 782 F.2d
 8 1470, 1471-72 (9th Cir. 1986). However, given the execution of the Settlement
 9 Agreement between the parties and the brief period time for the initial compliance
 10 obligation, in the interest of judicial economy and to avoid incurring unnecessary legal
 11 expenses and costs, Plaintiffs request a brief extension of ten (10) days to determine
 12 whether the entire matter may be resolved with a Stipulation of Dismissal Without
 13 Prejudice.
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15 **IV. PROPOSED EXTENSION OF DEADLINE TO FILE MOTION FOR**
 16 **DEFAULT JUDGMENT**

17 Based on the foregoing, the Plaintiffs request the Court grant their Motion and
 18 extend the deadline to file a motion for default judgment against the Defendants
 19 through Thursday, August 3, 2023.
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21 **V. LR IA 1-3(f) AND LR 26-6 DECLARATION**

22 I, Kristina A. Woo, declare in compliance with LR IA 1-3(f) and LR 26-6 that on
 23 Monday, July 24, 2023 at 11:17 a.m., I sent an electronic communication to Defendant
 24 regarding the relief sought in this Motion.
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26 /s/ Kristina A. Woo
 27
 28

Respectfully Submitted,

By: /s/ Robert L. J. Spence, Jr.
Robert L. J. Spence, Jr. (*pro hac vice* approved)
Kristina A. Woo (*pro hac vice* approved)
80 Monroe Avenue, Garden Suite One
Memphis, Tennessee 38103
Telephone: 901.312.9160
Facsimile: 901.521.9550
rspence@spence-lawfirm.com
kwoo@spence-lawfirm.com

/s/ Carl E. G. Arnold
Carl E.G. Arnold (State Bar No.8358)
1428 S. Jones Blvd.
Las Vegas, Nevada 89146
Telephone: 702.358.1138
carl@cegalawgroup.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been served through the Court's ECF filing system, electronic mail, and/or U.S. Mail on the following this 24th day of July, 2023.

ARB Las Vegas d/b/a Las Vegas Towing
c/o Danielle Leleu
2968 Marco Street B
Las Vegas, Nevada 89115

/s/ Robert L. J. Spence, Jr.

IT IS SO ORDERED:


UNITED STATES DISTRICT JUDGE

Date: July 25, 2023